

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO.
)	
MARVIN J. BROWN,)	
)	
Defendant.)	

STATEMENT OF FACTS

_____At trial, the United States would introduce competent and relevant testimony and exhibits that would prove the following beyond a reasonable doubt.

1. Defendant MARVIN J. BROWN was a physician licensed and residing in the State of Ohio and specialized in the practice of obstetrics-gynecology. He also held a Controlled Substances Registration Certificate issued by the Drug Enforcement Administration. During the period May 1999 through December 2000, BROWN participated in a conspiracy to sell via the Internet, controlled substance and other prescription drugs to consumers in the United States and throughout the world. Through these methods, the defendant and his co-conspirators mass-marketed their drugs and services. In furtherance of this conspiracy, BROWN authorized his name to appear on vials of drugs that were distributed and dispensed to customers by other individuals and entities with whom he conspired. BROWN authorized the issuance of more than 22,056 prescriptions resulting in the distribution and dispensing of at least 91,560 pills of Schedule III substances and at least 1,239,442 pills of Schedule IV substances to customers in, among other places, Fairfax County, Arlington County, and Fauquier County in the Eastern District of Virginia. During this time period, Brown was aware that several other physician co-conspirators were also authorizing the distribution and dispensing of controlled substances to customers of other websites controlled by his co-conspirators.

The Schedule III substance distributed and dispensed was phendimetrazine, a stimulant for weight loss, sold by its brand name Bontril. The Schedule IV substances distributed and dispensed were phentermine, sold generically and by the brand names Adipex and Ionamin, and sibutramine hydrochloride, sold by the brand name Meridia. These drugs are indicated for weight loss.

2. Prior to authorizing drugs to be dispensed through the Internet, Brown worked in weight loss clinics operated by James A. Trovato, Jr. Brown's professional course of practice in the weight loss clinics included, among other things, physically examining patients, obtaining a medical history, discussing exercise and diet with patients, providing follow-up care, monitoring weight loss or gain, and regulating the amounts of medications, if any, made available to patients, as well as the length of time a person was prescribed medication.

3. Sometime after BROWN became involved with the walk-in weight loss clinics, James A. Trovato, Jr., a co-conspirator, asked BROWN to authorize the distributing and dispensing of controlled substances to customers who ordered drugs over the Internet on the basis of website order forms. Trovato, together with another co-conspirator, Vincent K. Chhabra, owned and operated several websites that advertised various controlled substances and other prescription drugs for sale to domestic and international customers. Some of the controlled substances offered to customers were drugs commonly known as Bontril, Ionamin, Phentermine, Adipex, and Meridia.

4. Customers who ordered drugs from the websites were not required to provide a prescription before receiving the controlled substances. Instead, customers filled out an online order form and chose the type, quantity, and dosage of controlled substance the customer wished to purchase. Customers also answered questions about their medical conditions. Many questions had default answers provided that "qualified" customers to receive drugs. Customers had the option of

changing the default answers to provide other information.

5. Under the Controlled Substances Act and its implementing regulations, for a prescription to be valid, a prescription had to be issued for a legitimate medical purpose by an individual acting in the usual course of the professional practice. 21 C.F.R. § 1306.04.

6. The prescriptions authorized by BROWN were not valid because BROWN had no face-to-face contact with the customers for whom he authorized the dispensing and distribution of controlled substances, he performed no mental or physical examination, did not take a patient history or perform any diagnostic or laboratory testing, did not check the accuracy of the information customers provided (including their identities, ages, and qualifying medical conditions, such as weight), and did not monitor, or provide any means to monitor, medication response, weight loss or weight gain, nor did he seek information concerning the amounts of drugs his co-conspirators had authorized to be distributed and/or dispensed to particular customers. Instead, as BROWN's coconspirators well knew and agreed, the controlled substances were distributed and dispensed for other than legitimate medical purposes and not in the usual course of professional practice. As such, BROWN's and his co-conspirators' actions violated the Controlled Substances Act.

7. Authorizing the distribution and dispensing on the basis of a review of an order form, where there is no previously established doctor-patient relationship, significantly endangers the public welfare.

8. As a result of the procedures used in this Internet drug distribution business, BROWN authorized the dispensing and distribution of excessive quantities of controlled substances to many customers on a regular basis.

9. BROWN received a total of \$112,000 for authorizing the distribution and dispensing of

controlled substances ordered by the Internet customers.

10. BROWN used a special skill, his medical license, in order to facilitate the commission of this offense.

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, MARVIN J. BROWN, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Marvin J. Brown
Defendant

I am MARVIN J. BROWN's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Angelo F. Lonardo
Counsel for Defendant